



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR 31 2005

REPLY TO THE ATTENTION OF

(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jim Schoonover, Operations Manager
Intrametco Processing, Inc.
1901 West Louisiana Street
Evansville, Indiana 47712

Re: In the Matter of Intrametco Processing, Inc.
CAA Docket No.

~~CAA-05-~~ 2005 0018

Dear Mr. Schoonover:

I have enclosed a complaint filed against Intrametco Processing, Inc., under Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d). The complaint alleges violations of the Secondary Aluminum Production National Emission Standard for Hazardous Air Pollutants, 42 U.S.C. § 7414.

As provided in the complaint, if you would like to request a hearing, you must do so in your answer to the complaint. Please note that if you do not file an answer with the Regional Hearing Clerk within 30 days of your receipt of this complaint, a default order may be issued and the proposed civil penalty will become due 30 days later.

In addition, whether or not you request a hearing, you may request an informal settlement conference. If you wish to request a conference, or if you have any questions about this matter, please contact Erik Olson, Assistant Regional Counsel (C-14J), 77 West Jackson Boulevard, Chicago, Illinois 60604, at (312)886-6829.

Sincerely yours,

Stephen Rothblatt, Director
Air and Radiation Division

Enclosures

cc: David McIver, Chief
Office of Enforcement
Indiana Department of Environmental Management

Dona J. Bergman, Director
City of Evansville
Environmental Protection Agency

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)	Docket No.	CAA-95-2005	0018
)			
Intrametco Processing, Inc.)	Proceeding to Assess a		
Evansville, Indiana,)	Civil Penalty under		
)	Section 113(d) of the		
Respondent.)	Clean Air Act,		
)	42 U.S.C. § 7413(d)		
)			

Administrative Complaint

1. This is an administrative proceeding to assess a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).

2. The Complainant is, by lawful delegation, the Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, Chicago, Illinois.

3. The Respondent is Intrametco Processing, Inc., a corporation doing business in Indiana.

Statutory and Regulatory Background

4. Under Section 112 of the Act, 42 U.S.C. § 7412, the Administrator of U.S. EPA promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Secondary Aluminum Processing at 40 C.F.R. §§ 63.1500 through 63.1520.

5. The NESHAP for Secondary Aluminum Processing applies to secondary aluminum production facilities. 40 C.F.R. § 63.1500(a)

6. As defined by the NESHAP, secondary aluminum production facilities include any establishment using clean charge, aluminum scrap, or dross from aluminum production, as the raw material and

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performing one or more of the following processes: scrap shredding, scrap drying/delacquering/decoatin, thermal chip drying, furnace operations (i.e., melting, holding, sweating, refining, fluxing, or alloying), recovery of aluminum from dross, incline fluxing, or dross cooling. 40 C.F.R. § 63.1503.

7. The NESHAP, at 40 C.F.R. § 63.1501, requires the owner or operator of any existing affected source to comply with the requirements of Subpart RRR by March 24, 2003.

8. The Administrator of U.S. EPA (the Administrator) may assess a civil penalty of up to \$27,500 per day of violation up to a total of \$220,000 for NESHAP violations that occurred from January 31, 1997 to March 15, 2004, under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

9. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

10. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this complaint.

General Allegations

11. Intrametco owns and operates a secondary aluminum

production facility at 1901 West Louisiana Street, Evansville, Indiana (the facility).

12. At all times relevant to events alleged in this complaint, Intrametco owned and operated a rotary scrap dryer and two group 1 furnaces at the facility.

13. The facility is an emission source subject to the requirements of the Clean Air Act, including 40 C.F.R. part 63 subpart RRR.

14. The facility is an area source as defined at 40 C.F.R. § 63.2.

Count I

15. Complainant incorporates paragraphs 1 through 14 of this complaint, as if set forth in this paragraph.

16. The NESHAP, at 40 C.F.R. § 63.1511(b), required Intrametco to demonstrate initial compliance of its rotary scrap dryer and both group 1 furnaces through initial performance tests no later than the compliance date established by 40 C.F.R. § 63.1501(a), March 24, 2003.

17. The NESHAP, at 40 C.F.R. §§ 63.1512(c), required Intrametco to conduct performance tests on its scrap dryer to measure dioxins and furans (D/F) emissions.

18. The NESHAP, at 40 C.F.R. §§ 63.1512(d), required Intrametco to conduct performance tests on both group 1 furnaces to measure D/F emissions.

19. Intrametco did not conduct performance testing on its rotary scrap dryer or group 1 furnaces until May 6-8, 2003. The samples from these tests were destroyed during shipment, so

testing was rescheduled for and completed on July 8-10, 2003.

20. Intrametco's failure to conduct performance testing no later than the March 24, 2003 compliance date violated 40 C.F.R. § 63.1511(b).

Count II

21. Complainant incorporates paragraphs 1 through 20 of this Complaint, as if set forth in this paragraph.

22. 40 C.F.R. § 63.1505(d)(1)(iii) prohibits the owner or operator of a rotary scrap dryer from causing D/F emissions to the atmosphere in excess of 0.25 µg of D/F TEQ per Mg of feed/charge from a scrap dryer at a secondary aluminum production facility that is a major or area source.

23. Pursuant to 40 C.F.R. § 63.1505(e), the owner or operator of a scrap dryer may choose to comply with the alternate limit for D/F emissions provided in 40 C.F.R. § 63.1505(e)(1)(iii), 5.0 µg of D/F TEQ per Mg of feed/charge, at a scrap dryer equipped with an afterburner having a design residence time of at least 1 second and where the afterburner is operated at a temperature of at least 750 °C (1400 °F) at all times.

24. Intrametco's scrap dryer is equipped with an afterburner having a design residence time of at least 1 second and is operated at a temperature of at least 750 °C (1400 °F).

25. On May 6, 2003 Intrametco conducted performance emissions testing on its rotary scrap dryer for D/F. The samples from this test were destroyed in shipping, so no test results were available for this test.

26. On July 8, 2003 Intrametco conducted performance emissions testing on its rotary scrap dryer for D/F. The results of the test showed that the scrap dryer was discharging an average of 298.588 μg of D/F TEQ per Mg of feed/charge.

27. The July 8, 2003 test results document violations of both the emission standard at 40 C.F.R. 63.1505(d)(1)(iii) and the alternative emission standard at 40 C.F.R. § 63.1505(e)(1)(iii).

28. Without additional testing to demonstrate compliance, Intrametco operated its scrap dryer on three days, September 4, 5, and 8, 2003 in the regular course of business.

29. Intrametco violated the D/F emission standard at 40 C.F.R. 63.1505(d)(1)(iii) and the alternative emission standard at 40 C.F.R. § 63.1505(e)(1)(iii) on May 6, 2003, July 8, 2003, and September 4, 5, and 8, 2003.

Proposed Civil Penalty

30. The Administrator must consider the factors specified in Section 113(e) of the Act when assessing an administrative penalty under Section 113(d). 42 U.S.C. § 7413(e).

31. Based upon an evaluation of the facts alleged in this complaint and the factors in Section 113(e) of the Act, Complainant proposes that the Administrator assess a civil penalty against Respondent of \$107,800. Complainant evaluated the facts and circumstances of this case with specific reference to U.S. EPA's Clean Air Act Stationary Source Penalty Policy dated October 25, 1991 (penalty policy). Enclosed with this complaint is a copy of the penalty policy.

32. Complainant developed the proposed penalty based on the best information available to Complainant at this time. Complainant may adjust the proposed penalty if the Respondent establishes bona fide issues of ability to pay or other defenses relevant to the penalty's appropriateness.

Rules Governing This Proceeding

33. The "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits" (the Consolidated Rules) at 40 C.F.R. Part 22 govern this proceeding to assess a civil penalty. Enclosed with the complaint served on Respondent is a copy of the Consolidated Rules.

Filing and Service of Documents

34. Respondent must file with the Regional Hearing Clerk the original and one copy of each document Respondent intends as part of the record in this proceeding. The Regional Hearing Clerk's address is:

Regional Hearing Clerk (R-19J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

35. Respondent must serve a copy of each document filed in this proceeding on each party pursuant to Section 22.5 of the Consolidated Rules. Complainant has authorized Erik Olson to receive any answer and subsequent legal documents that Respondent serves in this proceeding. You may telephone Mr. Olson at (312) (312)886-6829. Mr. Olson's address is:

Erik Olson (C-14J)

Assistant Regional Counsel
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Penalty Payment

36. Respondent may resolve this proceeding at any time by paying the proposed penalty by certified or cashier's check payable to "Treasurer, the United States of America", and by delivering the check to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 70753
Chicago, Illinois 60673

Respondent must include the case name and docket number on the check and in the letter transmitting the check. Respondent simultaneously must send copies of the check and transmittal letter to Erik Olson and to:

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Opportunity to Request a Hearing

37. The Administrator must provide an opportunity to request a hearing to any person against whom the Administrator proposes to assess a penalty under Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2). Respondent has the right to request a hearing on any material fact alleged in the complaint, or on the appropriateness of the proposed penalty, or both. To request a hearing, Respondent must specifically make the request in its answer, as discussed in paragraphs 38 through 43 below.

Answer

38. Respondent must file a written answer to this complaint if Respondent contests any material fact of the complaint; contends that the proposed penalty is inappropriate; or contends that it is entitled to judgment as a matter of law. To file an answer, Respondent must file the original written answer and one copy with the Regional Hearing Clerk at the address specified in paragraph 34, above, and must serve copies of the written answer on the other parties.

39. If Respondent chooses to file a written answer to the complaint, it must do so within 30 calendar days after receiving the complaint. In counting the 30-day time period, the date of receipt is not counted, but Saturdays, Sundays, and federal legal holidays are counted. If the 30-day time period expires on a Saturday, Sunday, or federal legal holiday, the time period extends to the next business day.

40. Respondent's written answer must clearly and directly admit, deny, or explain each of the factual allegations in the complaint; or must state clearly that Respondent has no knowledge of a particular factual allegation. Where Respondent states that it has no knowledge of a particular factual allegation, the allegation is deemed denied.

41. Respondent's failure to admit, deny, or explain any material factual allegation in the complaint constitutes an admission of the allegation.

42. Respondent's answer must also state:

- a. the circumstances or arguments which Respondent alleges constitute grounds of defense;

- b. the facts that Respondent disputes;
- c. the basis for opposing the proposed penalty; and
- d. whether Respondent requests a hearing as discussed in paragraph 37 above.

43. If Respondent does not file a written answer within 30 calendar days after receiving this complaint the Presiding Officer may issue a default order, after motion, under Section 22.17 of the Consolidated Rules. Default by Respondent constitutes an admission of all factual allegations in the complaint and a waiver of the right to contest the factual allegations. Respondent must pay any penalty assessed in a default order without further proceedings 30 days after the order becomes the final order of the Administrator of U.S. EPA under Section 22.27(c) of the Consolidated Rules.

Settlement Conference

44. Whether or not Respondent requests a hearing, Respondent may request an informal settlement conference to discuss the facts of this proceeding and to arrive at a settlement. To request an informal settlement conference, Respondent may contact Erik Olson at the address or phone number specified in paragraph 35, above.


45. Respondent's request for an informal settlement conference does not extend the 30 calendar day period for filing a written answer to this complaint. Respondent may pursue simultaneously the informal settlement conference and the adjudicatory hearing process. U.S. EPA encourages all parties facing civil penalties to pursue settlement through an informal conference. U.S. EPA, however, will not reduce the penalty

simply because the parties hold an informal settlement conference.

Continuing Obligation to Comply

46. Neither the assessment nor payment of a civil penalty will affect Respondent's continuing obligation to comply with the Act and any other applicable federal, state, or local law.

3/31/2005
Date



Stephen Rothblatt, Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

In the Matter of Intrametco Processing, Inc.
Docket No.

~~CAA-95-~~ 2005 0018

CERTIFICATE OF SERVICE

I, Betty Williams, certify that I hand delivered the original and one copy of the Administrative Complaint, docket number ~~CAA-95-~~ 2005 0018, the Regional Hearing Clerk, Region United States Environmental Protection Agency, and that I mailed correct copies of the Administrative Complaint, copies of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits" at 40 C.F.R. Part 22, and copies of the penalty policy described in the Administrative Complaint by first-class, postage prepaid, certified mail, return receipt requested, to the Respondent and Respondent's Counsel by placing them in the custody of the United States Postal Service addressed as follows:


Jim Schoonover:
Intrametco Processing, Inc.
1901 West Louisiana Street
Evansville, Indiana 47712

I also certify that a copy of the Administrative Complaint as sent by first Class Mail to:

David McIver, Chief
Office of Enforcement
Air Section
Indiana Department of Environmental Management
100 North Senate Avenue, Room 1001
Indianapolis, Indiana 46206-6015

Donna Bergman, Director
City of Evansville
Environmental Protection Agency
Suite 100 - C.K. Newsome Community Center
100 East Walnut Street
Evansville, Indiana 47713

on the 1st day of April, 2005


Betty Williams, Secretary
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 70010320000589096714